
IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH - CENTRAL DIVISION

CYNTHIA A. ZOLLINGER,

Plaintiff,

vs.

BRIDGERLAND APPLIED TECHNOLOGY
COLLEGE, STATE OF UTAH, and JOHN
DOES 1 through 3, and JANE DOES 1 through
3,

Defendants.

**MEMORANDUM DECISION AND
ORDER**

Case No.: 1:05-CV-00145

Judge Dee Benson

Plaintiff moves the Court for a new trial, or, in the alternative, for relief from the judgment entered May 25, 2007 dismissing her claims in their entirety. Defendants moved for judgment on the pleadings March 30, 2007 and Plaintiff, due to a calendaring error, failed to oppose the motion. On May 25, 2007, the Court adopted the reasoning in Defendants' brief and dismissed Plaintiff's case. Plaintiff now requests that the Court amend its prior order to dismiss only her federal claims with prejudice and to dismiss her state claims without prejudice so that she may pursue them in state court.

A district court "may decline to exercise supplemental jurisdiction over a claim . . . if the district court has dismissed all claims over which it has original jurisdiction." 28 U.S.C. § 1367(c)(3). For reasons of comity it is preferable for district courts to dismiss pendent state law claims without prejudice "to promote justice between the parties, by procuring for them a surer-footed reading of applicable law." *United Mine Workers of America v. Gibbs*, 282 U.S. 715, 716 (1966). Accordingly, "if federal claims are dismissed before trial, leaving only issues of state

law, ‘the federal court should decline the exercise of jurisdiction by dismissing the case without prejudice.’” *Ashley Creek Phosphate Co. v. Chevron USA, Inc.*, 315 F.3d 1245, 1264, n. 18 (quoting *Carnegie-Mellon Univ. v. Cohill*, 484 U.S. 343, 350 (1988)).

In recognition of these principles, the Court GRANTS Plaintiff’s motion for relief from the judgment of May 25, 2007, dismisses (again) Plaintiff’s federal claims with prejudice, and dismisses Plaintiff’s state law claims without prejudice. Fed.R.Civ.P. 60(b). It is so ordered.

DATED this 6th day of August, 2007.

A handwritten signature in black ink, reading "Dee Benson". The signature is written in a cursive, flowing style. The first name "Dee" is written with a large, stylized 'D' that loops around the first few letters. The last name "Benson" is written in a more standard cursive script. The signature is positioned above a horizontal line.

Dee Benson
United States District Judge